



COUNTY OF LOS ANGELES DEPARTMENT OF HUMAN RESOURCES

HEADQUARTERS

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LISA M. GARRETT
DIRECTOR OF PERSONNEL

April 17, 2015

To: Patrick Ogawa
Acting Executive Officer

From: Lisa M. Garrett 
Director of Personnel

Subject: **REVIEW OF BOARD POLICY NO. 9.015 – COUNTY POLICY OF EQUITY**

In response to your March 23, 2015 request, we have completed our review of Board Policy No. 9.015 – *County Policy of Equity*.

After consultation with the Executive Office of the Board of Supervisors, the Department of Human Resources recommends that this policy remain in effect, as written, with an extended sunset review date of four years to July 1, 2019.

Should you have any questions, please contact me at (213) 974-2406, or your staff may contact Marisa Lopez, Senior Human Resources Manager, at (213) 351-8945.

LMG:EP:PAM
ML:HL:rp

Attachment

S/PMPD/BOS Policies/BOS 9.015 LMG Memo to BOS 04-2015

To Enrich Lives Through Effective and Caring Service



Los Angeles County BOARD OF SUPERVISORS POLICY MANUAL

Policy #:	Title:	Effective Date:
9.015	County Policy of Equity	07/01/11

PURPOSE

This Policy is intended to preserve the dignity and professionalism of the workplace as well as protect the right of employees to be free from discrimination, sexual harassment, unlawful harassment (other than sexual), retaliation and inappropriate conduct toward others based on a protected status. Discrimination, sexual harassment, unlawful harassment (other than sexual), retaliation and inappropriate conduct toward others based on a protected status, are contrary to the values of the County. The County will not tolerate unlawful discrimination on the basis of sex, race, color, ancestry, religion, national origin, ethnicity, age (40 and over), disability, sexual orientation, marital status, medical condition or any other protected characteristic protected by state or federal employment law, nor will it tolerate unlawful harassment, or retaliation. As a preventive measure, the County also will not tolerate inappropriate conduct toward others based on a protected status even if the conduct does not meet the legal definition of discrimination or unlawful harassment. All County employees are responsible for conducting themselves in accordance with this Policy and its associated Procedures. Violation of the Policy and/or Procedures will lead to prompt and appropriate administrative action including, but not limited to, counseling, training, written warning, written reprimand, suspension, demotion, or discharge.

REFERENCE

[May 31, 2011](#), Chief Executive Office and Executive Office, Board of Supervisors:
Approval of County of Los Angeles Policy of Equity

[County of Los Angeles Policy of Equality, July 1, 2011](#)

Department of Human Resources, Policies, [Procedures and Guidelines Number 910](#),
Employees Cooperation in the Administrative Investigations Process

[Los Angeles County Code Chapter 5.09](#),

POLICY

THE POLICY

All Los Angeles County (County) employees are required to conduct themselves in accordance with the entirety of this County Policy of Equity (Policy), and all applicable local, county, state, and federal laws.

COUNTY POLICY OF EQUITY PROHIBITED CONDUCT

Each County employee is responsible for understanding and abiding by these definitions of prohibited conduct as they may impact any administrative process/proceeding for potential violations of this Policy and/or associated Procedures.

COUNTY POLICY OF EQUITY DISCRIMINATION

Discrimination is the disparate or adverse treatment of an individual based on or because of that individual's sex, race, color, ancestry, religion, national origin, ethnicity, age (40 and over), disability, sexual orientation, marital status, medical condition or any other protected characteristic protected by state or federal employment law.

COUNTY POLICY OF EQUITY SEXUAL HARASSMENT

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature which meets any one of the following three criteria:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with the individual's employment or creating an intimidating, hostile, offensive, or abusive working environment.

COUNTY POLICY OF EQUITY UNLAWFUL HARASSMENT (OTHER THAN SEXUAL)

Unlawful harassment of an individual because of the individual's race, color, ancestry, religion, national origin, ethnicity, age (40 and over), disability, sexual orientation, marital status, medical condition or any other protected characteristic protected by state or federal employment law is also discrimination and prohibited. Unlawful harassment is conduct which has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, offensive, or abusive work environment.

COUNTY POLICY OF EQUITY THIRD-PERSON HARASSMENT

Third-person unlawful harassment is indirect harassment of a bystander, even if the person engaging in the conduct is unaware of the presence of the bystander. When an individual engages in harassing behavior, he or she assumes the risk that someone may pass by or otherwise witness the behavior. The County considers this to be the same as directing the harassment toward that individual.

COUNTY POLICY OF EQUITY INAPPROPRIATE CONDUCT TOWARD OTHERS

Inappropriate conduct toward others is any physical, verbal, or visual conduct based on or

because of sex, race, color, ancestry, religion, national origin, ethnicity, age (40 and over), disability, sexual orientation, marital status, medical condition or any other protected characteristic protected by state or federal employment law when such conduct reasonably would be considered inappropriate for the workplace.

This provision is intended to stop inappropriate conduct based on a protected status before it becomes discrimination or unlawful harassment. As such, the conduct need not meet legally actionable state and/or federal standards of severe or pervasive to violate this Policy. An isolated derogatory comment, joke, racial slur, sexual innuendo, etc., **may** constitute conduct that violates this policy and is grounds for discipline. Similarly, the conduct need not be unwelcome to the party against whom it is directed; if the conduct reasonably would be considered inappropriate by the County for the workplace, it **may** violate this Policy.

COUNTY POLICY OF EQUITY RETALIATION

Retaliation for the purposes of this Policy is an adverse employment action against another for reporting a protected incident or filing a complaint of conduct that violates this Policy or the law or participating in an investigation, administrative proceeding or otherwise exercising their rights or performing their duties under this Policy or the law.

COUNTY POLICY OF EQUITY EXAMPLES OF CONDUCT THAT MAY VIOLATE THIS POLICY AND SCOPE OF COVERAGE

Depending on the facts and circumstances, the following are examples of conduct that may violate this Policy:

- Posting, sending, forwarding, soliciting or displaying in the workplace any materials, documents or images that are, including but not limited to, sexually suggestive, racist, "hate-site" related, letters, notes, invitations, cartoons, posters, facsimiles, electronic mail or web links;
- Verbal conduct such as whistling and cat calls, using or making lewd or derogatory noises or making graphic comments about another's body, or participating in explicit discussions about sexual experiences and/or desires;
- Verbal conduct such as using sexually, racially or ethnically degrading words or names, using or making racial or ethnic epithets, slurs, or jokes;
- Verbal conduct such as comments or gestures about a person's physical appearance which have a racial, sexual, disability-related, religious, age or ethnic connotation or derogatory comments about religious differences and practices;
- Physical conduct such as touching, pinching, massaging, hugging, kissing, rubbing the body or making sexual gestures;
- Visual conduct such as staring, leering, displaying or circulating sexually suggestive objects, pictures, posters, photographs, cartoons, calendars, drawings, magazines, computer images or graphics;
- Sexual advances or propositions, including repeated requests for a date;
- Adverse employment actions like discharge and/or demotion, this list is not exhaustive.

SCOPE OF COVERAGE

County Workforce: For purposes of this Policy, County Workforce includes but is not limited to County employees, applicants for employment, all volunteers, and outside vendors.

Location: This Policy prohibits discrimination, unlawful harassment, retaliation, and inappropriate conduct toward others based on a protected status in the workplace or in other work-related settings such as off site work-related events (e.g., retirement parties) with a nexus to the workplace.

Communication System/Equipment: This Policy also applies to the use of any communication system or equipment in the workplace, including but not limited to, electronic mail, internet, intranet, telephone lines, computers, facsimile machines, voice-mail, radio, cell phones, blackberries and mobile digital terminals. Employees may be disciplined in accordance with this Policy for using any communication system or equipment to deliver, display, store, forward, publish, circulate, or solicit material in violation of this Policy.

COUNTY POLICY OF EQUITY REPORTING VIOLATIONS OF THIS POLICY

Any County employee who believes he or she has been subjected to conduct that potentially violates this Policy is strongly encouraged to report the matter to any Department supervisor or manager or the County Intake Specialist Unit. The County Intake Specialist Unit may be reached by phone: **1-855-999-CEOP (2367)** or website: <https://CEOP.bos.lacounty.gov> and is located at: **Kenneth Hahn Hall of Administration, 500 West Temple Street, Room # B-26, Los Angeles, CA 90012**

Any non-supervisory County employee who believes he or she has knowledge of conduct that potentially violate this Policy is also strongly encouraged to report the matter.

Supervisors and managers have an affirmative duty to report potential violations of this Policy to the County Intake Specialist Unit. Supervisors and managers also have additional duties and responsibilities as detailed in the procedures associated with this Policy.

The County will promptly, fully and fairly investigate any reports/complaints and take appropriate corrective action.

County employees also may contact the California Department of Fair Employment and Housing by calling (800) 884-1684 or visiting their website at www.dfeh.ca.gov; and/or may contact the Federal Equal Employment Opportunity Commission by calling (213) 894-1000 or (800) 669-4000 or visiting their website at www.eeoc.gov.

COUNTY POLICY OF EQUITY PROCEDURES DUTIES OF SUPERVISORS AND MANAGERS

Under these Procedures, supervisors and managers have an affirmative duty to perform certain duties as enumerated below.

Supervisors and managers, for purposes of the Policy include: any employee regardless of job description or title, having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend this action, if, in connection with the foregoing, the exercise of this authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

NOTE:

FAILURE BY ANY SUPERVISOR OR MANAGER TO CARRY OUT THESE DUTIES MAY BE CAUSE FOR DISCIPLINE.

Duty of All Supervisors and Managers to Report

Supervisors and managers have an affirmative duty to report potential violations of the Policy. Supervisors and managers are required to report potential violations of the Policy to the County Intake Specialist Unit as provided below even when a complaining or reporting party requests that no action be taken. The supervisor or manager shall:

Immediately notify the County Intake Specialist Unit of the incident(s) or complaint and any initial steps taken by the supervisor or manager; and Complete a County Policy Of Equity Report form ("County POE Report Form") and file the original with the County Intake Specialist Unit with copies to:

- (a) the reporting party's Department Head, unless the complaint is against the Department Head, in which case it shall be sent to the Executive Director of the County's Equity Oversight Panel; and
- (b) the Executive Director of the County's Equity Oversight Panel.

Additional Duties of All Supervisors and Managers

Supervisors and managers are also responsible for:

- Being aware of, abiding by and understanding the Policy and Procedures, as well as any modifications that may be made to them;
- Actively monitoring the work environment to ensure that County Policy of Equity discrimination, unlawful harassment, retaliation and/or inappropriate conduct toward others based on a protected status are not occurring;
- Informing County employees under their supervision of the types of behavior prohibited, and the County's procedures for reporting and resolving complaints arising under the Policy;
- Stopping conduct that potentially violates the Policy and taking immediate and **appropriate administrative action** whether or not the involved County employees are within their line of supervision; and
- If a situation requires separation of the involved parties, particular care must be taken to avoid actions that appear to punish the complaining party. (Note: Supervisors are not required to place themselves in physical harms way to separate the parties.)

Supervisors and managers have the foregoing duties whether or not a complaint has been made.

Additional Duties of Department Heads

In addition to the duties described above, Department Heads have the following duties:

- Ensuring that the County's POE is disseminated to every employee in the Department; and

- Ensuring that blank County POE Report Forms are maintained in a prominent and accessible place in every Department Unit. It is the further duty of the Department Head to ensure that the location, availability, and purpose of these forms are made known to each Department member.

COUNTY POLICY OF EQUITY - DUTY TO COOPERATE

All County employees are responsible for cooperating fully in any administrative investigation related to this Policy in accordance with County PPG 910.

COUNTY POLICY OF EQUITY NO RETALIATION

This Policy absolutely prohibits retaliation. No County employee will be subjected to an adverse employment action for: making a complaint of conduct that potentially violates this Policy, or cooperating in any administrative investigation or otherwise preventing prohibited practices under this Policy. The County will take corrective administrative action to prevent retaliation, including the imposition of appropriate discipline to any County employee who engages in retaliation.

DUE PROCESS, GRIEVANCE AND APPEAL RIGHTS

County Employee Rights

All applicable County employee due process, grievance and appeal rights remain in tact under this Policy and Procedures.

Represented County employees may grieve disciplinary actions according to the terms of applicable memoranda of understanding ("MOU") negotiated by the Department and the union representing said members. As such, these MOUs may require separate or additional procedures according to their respective terms.

Supervisors' and Managers' Responsibilities

Any supervisor authorized to conduct grievances shall promptly communicate, in writing, to the Executive Director of the County's Equity Oversight Panel and to the involved subject's Department Head the factual basis for any decision to modify the County Equity Oversight Panel's recommendation. Failure to do so may be cause for discipline.

Appeals To Civil Service Commission

County Employees also may appeal final determinations of discipline to the Civil Service Commission in accordance with the Civil Service Rules. The Department shall notify the Executive Director of the County's Equity Oversight Panel of a settled Civil Service Commission case.

COUNTY POLICY OF EQUITY PROCEDURES EXTERNAL COMPLAINT MONITORING

The County's Intake Specialist Unit, shall receive and process all external discrimination, harassment, and/or retaliation complaints. A Department in receipt of an external discrimination, harassment and/or retaliation complaint shall forward the complaint to the County's Intake Specialist Unit for processing. Where appropriate, the County's Intake Specialist Unit will forward the complaint to the County's Equity Investigations Unit for

investigation and any required contact, communication and/or closure with the involved external entity.

COUNTY POLICY OF EQUITY PROCEDURES CONFIDENTIALITY

The County shall maintain all complaint-related information in confidence to the extent possible given the obligation to conduct a full and fair investigation. For more information concerning confidentiality, County employees should contact the County's Intake Specialist Unit.

RESPONSIBLE DEPARTMENT

Executive Office of the Board of Supervisors

County Department of Human Resources

DATE ISSUED/SUNSET DATE

Issue Date: July 1, 2011

Sunset Date: July 1, 2015

Review Date: April 17, 2015

Sunset Date: July 1, 2019